

**UNITED STATES COURT OF APPEALS**  
**FOR THE DISTRICT OF COLUMBIA CIRCUIT**

ADVANCEPIERRE FOODS, INC.,	)	
	)	
Petitioner,	)	
	)	
v.	)	Case No. 18-1219
	)	
NATIONAL LABOR RELATIONS	)	
BOARD,	)	
	)	
Respondent.	)	

**PETITIONER’S CORRECTED REPLY IN SUPPORT OF MOTION TO**  
**HOLD APPEAL IN ABEYANCE PENDING MEDIATION**

Petitioner AdvancePierre Foods, Inc. (“Petitioner”) respectfully submits this reply in support of its September 10, 2018 Motion requesting the Court to hold this appeal in abeyance until the case has been mediated through the Appellate Mediation Program. [Document #1749852].

1. On August 8, 2018, Petitioner filed its Petition for Review of the National Labor Relations Board’s (“NLRB”) Decision and Order in case No. 366 NLRB No. 133 which was issued July 19, 2018.

2. On August 21, 2018, Petitioner notified the Circuit Court Clerk of its request to enter this Court’s Appellate Mediation Program.

3. On September 12, 2018, the Respondent filed its Opposition to Motion to Hold Case in Abeyance (Document #1750137). In its opposition, Respondent acknowledged that it was amenable to mediation, that it would willingly and fully participate in mediation if the case was accepted by the Court's mediation program, but noted that the case was not yet in mediation, no mediator has been assigned, and the parties have yet to participate in any mediation session. The Board noted that "should these events all occur, the Board is open to revisiting a stay if it would facilitate mediation."

4. On September 13, 2018, this appeal was selected for mediation and Ernie Isenstadt, Esq. was assigned as the mediator. The Notice regarding mediation selection noted that a mediation session would be scheduled as soon as possible.

5. Indeed, the undersigned counsel has already initially spoken with Mediator Isenstadt and he indicated that he is scheduled to speak with the Respondent's attorneys as early as today in hopes of moving the mediation process along.

6. Furthermore, a briefing schedule has not yet been established in this case.

7. Based on the above and in Petitioner's view, holding the appeal in abeyance pending mediation is prudent. Accordingly, Petitioner respectfully

requests that this appeal be held in abeyance pending mediation which may resolve the appeal and obviate the need for further action, including briefing. This request is not made for delay, but so that justice may be done.

8. This Reply is timely as it is filed within 7 days of service of the NLRB's Response and includes the Certificate of Compliance.

For these reasons, Petitioner respectfully requests that its *Motion to Hold Appeal in Abeyance Pending Mediation* be granted.

Respectfully submitted,

Filed: September 19, 2018

/s/ Amy J. Zdravecky

Amy J. Zdravecky

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*On Behalf of Petitioner*

**RULE 32 CERTIFICATE OF COMPLIANCE**

I certify that Petitioner's Corrected Reply in Support of Motion to Hold Appeal in Abeyance Pending Mediation complies with the type-volume requirements of Fed. R. App. P. 32 because the Reply contains 427 words, based on word processing software, excluding the parts of the reply exempted by Fed. R. App. P. 32(f). The Reply complies with the typeface requirements and type style requirements of Fed. R. App. P. 27(d)(1)(E) and 32(a)(5)-(6) because the reply has been prepared in a proportionally spaced typeface using Microsoft Word 2010 in 14-point Times New Roman font.

Respectfully submitted,

Filed: September 19, 2018

/s/ Amy J. Zdravecky

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**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a copy of *Corrected Reply in Support of Motion to Hold Appeal in Abeyance Pending Mediation* was filed and served on all counsel of record on September 19, 2018 via the Court's CM/ECF system or via U.S. Mail, as indicated:

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Respectfully submitted,

/s/ Amy Zdravecky

Amy Zdravecky